

In re Interest of Mia V.

Caselaw No.

A-11-172

Filed on

Thursday, April 13, 2017

SUMMARY: Admission of the caseworker's court reports and the father's letters satisfied requirements of procedural due process.

Mia, DOB 4/07, was born testing positive for methamphetamine and removed from the mother's home. The mother and father were married but the father was frequently incarcerated. Mia was placed with the mother during two periods between August 2008 and April 2010, and relinquished her parental rights in December 2010. Mia was adjudicated as to the father, Frederick, in late 2009 and on October 21, 2010, the State filed an amended motion to terminate his parental rights. Frederick was most recently arrested in March 2009 and sentenced to 82 months in prison. He had a history of domestic violence, did not have stable housing and had sporadic visits. He completed a drug evaluation but refused to attend outpatient treatment. During trial, several exhibits were received into evidence over Frederick's objections of the caseworker's court reports and 2 letters written by Frederick. On January 28, 2011, the court terminated Frederick's parental rights. Frederick appealed on the sole grounds that the exhibits should not have been admitted into evidence.

The Nebraska Court of Appeals affirmed the termination of parental rights. In analyzing whether procedural due process rights were satisfied, it noted that Frederick was notified of the hearings, represented by counsel and had the opportunity to cross-examine. The caseworker who wrote the four court reports testified at trial and had personal knowledge of the content within the reports. The Court of Appeals also found that Mia's mother testified as to the letters being written by Frederick and was available for cross examination, and that the letters are relevant in that they refer to Frederick's inability to parent.

Tags

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court report,
due process,
evidence,
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Frederick,
incarcerate,
incarceration,
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